

**PUBLIC UTILITIES COMMISSION**505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298**FILED**12/28/20
12:02 PM

December 28, 2020

Agenda ID #19098
Ratesetting

TO PARTIES OF RECORD IN RULEMAKING 14-03-003:

This is the proposed decision of Administrative Law Judge Jeanne M. McKinney. Until and unless the Commission hears the item and votes to approve it, the proposed decision has no legal effect. This item may be heard, at the earliest, at the Commission's February 11, 2021 Business Meeting. To confirm when the item will be heard, please see the Business Meeting agenda, which is posted on the Commission's website 10 days before each Business Meeting.

Parties of record may file comments on the proposed decision as provided in Rule 14.3 of the Commission's Rules of Practice and Procedure.

The Commission may hold a Ratesetting Deliberative Meeting to consider this item in closed session in advance of the Business Meeting at which the item will be heard. In such event, notice of the Ratesetting Deliberative Meeting will appear in the Daily Calendar, which is posted on the Commission's website. If a Ratesetting Deliberative Meeting is scheduled, ex parte communications are prohibited pursuant to Rule 8.2(c)(4)(B).

/s/ ANNE E. SIMONAnne E. Simon
Chief Administrative Law Judge

AES:avs

Attachment

Decision **PROPOSED DECISION OF ALJ MCKINNEY** (Mailed 12/28/2020)**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking to
Address Natural Gas Distribution
Utility Cost and Revenue Issues
Associated with Greenhouse Gas
Emissions.

Rulemaking 14-03-003

**DECISION DENYING PETITION FOR MODIFICATION
OF DECISION 18-03-017****Summary**

The Commission denies the petition for modification of Decision (D.) 18-03-017, modifying D.15-10-032, filed by the Public Advocates Office at the California Public Utilities Commission. This proceeding is closed.

1. Background

The California Air Resource Board established the Cap-and-Trade Program, pursuant to Assembly Bill (AB) 32, to fight climate change by limiting the amount of greenhouse gas (GHG) emissions emitted in California. The program allocates GHG emission allowances to natural gas utilities and establishes four annual allowance auctions. Each year, the natural gas utilities are required to consign a certain portion of allocated greenhouse gas allowances to the auction.¹ Pursuant to California Code of Regulations Chapter 17 Section 95893, the proceeds from the auction are then allocated consistent with

¹ Stats of 2006, ch. 488; California Code of Regulations (CCR) Chapter 17 Section 95879(f), 95890(f), and 95893.

the goals of AB 32 and exclusively for the benefit of retail natural gas ratepayers per Commission directives.² In particular, a significant portion of the allowance proceeds are allocated to protect ratepayers from cost increases resulting from the Cap-and-Trade program and to provide additional opportunities for those customers to take advantage of energy and money-saving upgrades that also help fight climate change.³

On March 29, 2018, the Commission issued Decision (D.)18-03-017, modifying D.15-10-032, and establishing the current allocation methodology and timeline for distribution of greenhouse gas allowance auction proceeds to natural gas residential customers.⁴ Named the California Climate Credit, these allowance proceeds were intended to mitigate bill impacts from GHG compliance costs and to promote energy efficiency and conservation.⁵ Natural gas utilities are required to file Tier 2 Advice Letters detailing both greenhouse gas allowance proceeds and the greenhouse gas compliance costs in natural gas rates before distributing the California Climate Credit to natural gas ratepayers in April each year.⁶

On March 27, 2020, The Public Advocates Office at the California Public Utilities Commission (Cal Advocates) filed its petition for modification of D.18-03-017. To support bill relief during times of financial hardships for California's ratepayers due to the COVID-19 pandemic, Cal Advocates' petition requests that the Commission require San Diego Gas & Electric Company

² CCR Chapter 17 Section 95893(a)-(d); D.18-03-017.

³ See, D.20-04-027 at 3 for a recent discussion of the Climate Credit for electric customers.

⁴ D.18-03-017 at 2.

⁵ D.15-10-032 at 36-38.

⁶ D.18-03-017 at 54.

(SDG&E) to distribute the anticipated 2021 natural gas climate credit to its customers in July 2020 instead of April 2021. Alternatively, Cal Advocates requested an order from the Commission directing SDG&E to submit an Advice Letter to accomplish the same end result. Cal Advocates also requested that the standard 30-day response time be shortened to five days for this petition.

SDG&E filed its opposition to an order shortening the time to respond to the petition for modification on April 1, 2020. SDG&E requested the Commission deny Cal Advocates' motion because SDG&E is already taking appropriate steps to mitigate economic impacts from the COVID-19 pandemic on its customers.⁷ Further, SDG&E cautions against a decision seeking potential short term rate relief without proper time to consider the unintended consequences the proposed changes might have on future rates.

2. Discussion

The Commission recognizes that many Californians are experiencing prolonged financial hardships due to the COVID-19 pandemic.⁸ This is not unique to SDG&E territory or natural gas users, and as such, utility responses have varied between industries and geographic regions.⁹ In addition to suspending disconnections for non-payment, SDG&E's efforts to assist customers include its Emergency Disaster Relief Program (DRP), freezing California Alternate Rates for Energy (CARE) and Medical Baseline eligibility reviews, waiving late fees, waiving security deposits for customers forced to relocate, and

⁷ The utility has suspended disconnections for all residential customers until further notice and implemented its Emergency Disaster Relief Program. (See SDG&E Opposition to an Order Shortening Time to Respond to the Public Advocates Office's Petition for Modification of D.18-03-017 at 3-4.)

⁸ This is also recognized by Governor Newsom. (See Executive Order N-33-20 (Mar. 19, 2020).)

⁹ (See Executive Order N-28-20 (Mar. 16, 2020).)

instituting flexible payment plan options.¹⁰ The Commission encourages utilities to continue to mitigate impacts on its customers to the extent feasible and allowable by law.¹¹

As required by law, allowance proceeds, including the Climate Credit, must be allocated consistent with the goals of AB 32, *i.e.* reducing greenhouse gas emissions.¹² Cal Advocates' motion attempts to demonstrate that customers are reducing emissions by traveling less during stay at home orders, but this falls short of establishing a tenable connection that justifies using the 2021 Climate Credit to support bill relief in 2020. Similarly, the Commission is not persuaded by Cal Advocates' assertion that modifying the Climate Credit schedule during this time of financial hardship due to a pandemic will increase customer awareness and understanding of the credits as a method for reducing emissions.

Further, the Commission shares SDG&E's anticipated concerns that providing speculative, short term relief might come at the expense of bill stability for customers in the future.¹³ The amount of GHG allowances proceeds available for eligible customers is determined by the market prices at auction. Because the amount of the proceeds is unpredictable, an early distribution of the Climate Credit would risk allocating funds that might not actually be received by the

¹⁰ See SDG&E Advice Letter 3516-E/2584-G.

¹¹ See letter from Alice Stebbins, Executive Director, Cal. Pub. Util. Comm., the Energy Companies re COVID-19 (Mar. 17, 2020).

¹² CCR Chapter 17 Section 95893(d).

¹³ Cal Advocates' motion states customers would receive a \$21.11 per household credit based on SDG&E's Advice Letter 2834-G. There is no discussion of how \$21.21 provides immediate relief to customers or how this might impact future customer credits. See Petition for Modification of D.18-03-017 of the Public Advocates Office and For an Order Shortening Time to Respond at 5.

natural gas utilities.¹⁴ Cal Advocates did not address the risk this creates for next year's auction proceeds.

Furthermore, moving the natural gas California Climate Credit from 2021 to 2020 would leave SDG&E natural gas customers with no California Climate Credit on their April 2021 bill, at a time when these customers may still be experiencing economic impacts from the pandemic and may be expecting a credit.

In addition, in May 2020 the Commission opened Rulemaking (R.) 20-05-002 to review the electric climate credit program. R.20-05-002 specifically includes the impact of COVID-19 on the climate credit distribution schedule in its scope. In October 2020 the Commission affirmed that it "will continue to monitor the situation to determine if and when action . . . is necessary."¹⁵

Finally, Cal Advocates' request for an order shortening the time for a response is moot, as both the shortened and standard times for responding to the petition have lapsed.

3. Conclusion

Cal Advocates' petition for modification of D.18-03-003, modifying D.15-10-032 is denied. California Climate Credits are designed to offset increases in costs resulting from the Cap-and-Trade program, and to provide customers with an opportunity to invest in energy saving technologies. Although state law and CARB regulations allow the Commission to set and modify the schedule for the annual Climate Credit distribution, the schedule cannot be modified in a

¹⁴ See CCR Chapter 17 Sections 95879(f), 95890(f), and 95893.

¹⁵ D.20-10-002 at 1 and at 21-23.

manner that would undercut the Climate Credit's function in support of the goals of AB 32. Cal Advocates have failed to demonstrate a defensible connection between modifying the 2021 Climate Credit schedule and reducing greenhouse gas emissions as required pursuant to California Code of Regulations Chapter 17 Section 95893. Further, based on the response provided by SDG&E, there has not been adequate analysis of the future impacts to customer credits this adjustment in the Climate Credit schedule could have. Finally, the request for an order shortening the response time from 30-days to five days is moot.

4. Comments on Proposed Decision

The proposed decision of Administrative Law Judge (ALJ) McKinney in this matter was mailed to the parties in accordance with Section 311 of the Pub. Util. Code and comments were allowed under Rule 14.3 of the Rules. Comments were filed on _____ and reply comments were filed on _____.

5. Assignment of Proceeding

Liane Randolph is the assigned Commissioner and Patrick Doherty and Jeanne McKinney are the assigned ALJs in this proceeding.

Findings of Fact

1. Californians are experiencing financial hardships resulting from the COVID-19 pandemic. The state and utilities are taking a number of steps to address this, including suspending disconnections and other forms of rate relief. The amount of greenhouse gas allowance proceeds distributed to eligible customers in the form of California Climate Credits is determined by market prices at auctions pursuant to the California Cap-and-Trade Program. As such, the 2021 allocation would not have been determined until after the accelerated distribution date requested by Cal Advocates.

2. California Climate Credits are allocated by SDG&E annually in April to mitigate impacts on rates from Cap-and-Trade compliance costs and to encourage customers to increase energy efficiency and conservation.

3. Both the requested expedited time to respond and the standard time to respond to Cal Advocates' petition for modification pursuant to Commission rules have lapsed.

Conclusions of Law

1. California Climate Credits are allocated pursuant to California Code of Regulations Chapter 17 Section 95893 and Commission Decision 18-03-017, modifying Decision 15-10-03, in accordance with Assembly Bill 32.

2. Cal Advocates' motion for an order shortening time to respond is moot.

O R D E R

IT IS ORDERED that:

1. The Public Advocates Office at the California Public Utilities Commission's petition for modification of Decision (D.) 18-03-003, modifying D.15-10-032, is denied.

2. The Public Advocates Office at the California Public Utilities Commission's request for an order shortening the response time to the petition for modification from 30 days to five days is denied as moot.

3. This proceeding is closed.

This order is effective today.

Dated _____, at San Francisco, California.